

# **INFORMATION SHEET**

## **DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK COUNTY V. U.S. ARMY CORPS OF ENGINEERS**

DISTRICT OFFICE: Saint Paul District

FILE NUMBER: MVP-2007-2140-DJP

PROJECT MANAGER: Dale Pfeiffle

PROJECT REVIEW/DETERMINATION COMPLETED: In the office? Y ☒ N ☐ Date: Apr. 2, 2007

At the project site? Y ☐ N ☐ Date:

### **PROJECT LOCATION INFORMATION:**

State: Wisconsin

County: Kenosha

Center coordinates of site by latitude & longitude: 42.6022905963N, 88.2348359549

Approximate size of site/property (including uplands) in acres: 179

Name of waterway or watershed: Upper Fox, Illinois, Wisconsin

Type of Aquatic Resource1:	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear Ft	Unknown
Lake									
River									
Stream									
Mudflat									
Sandflat									
Wetlands			5 acres						
Slough									
Prairie Pothole									
Wet Meadow									
Playa Lake									
Vernal Pool									
Natural Pond									
Other Water (identify type)									

1 Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors1	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able to Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?			X		
Is or would be used as habitat by other migratory birds that cross state lines?			X		
Is or would be used as habitat for endangered species?				X	
Is used to irrigate crops sold in interstate commerce?				X	

1 Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

**TYPE OF DETERMINATION:** Preliminary ☐ Or Approved: ☒

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ADDITIONAL INFORMATION SUPPORTING njd (e.g., paragraph 1 site conditions; paragraphs 2-3 rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 site information on waters of the U.S. occurring onsite): A wetland delineation report was received at the Waukesha office for review and concurrence. A review of the information available on the Kenosha County IMS (aerial photography and topographic mapping) indicates that the wetland boundaries have been correctly identified and are adequate to establish the extent of Corps jurisdiction.

The wetland delineation identified 9-separate wetland areas with a combined surface area of approximately 45–acres at the 179 –acre site. A wetland complex with a surface area of approximately 40–acres was identified along a ditch system that is tributary to the Fox River, a navigable water of the US and is therefore jurisdictional.

The other 8-wetlands with a combined surface area of approximately 5-acres are confined to isolated depressions that lack a surface water connection and adjacency to nearby ditch and jurisdictional wetland. Connections between these 8 wetlands and interstate commerce was also considered but could not be identified. Therefore, the 8 wetlands confined to depressional areas scattered throughout the 179-acre parcel are isolated waters that would not be subject to Corps Section 404 jurisdiction.